

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

MIGUEL MERLAN OROZCO,

Petitioner,

v.

WILLIAM STEPHENS,

Respondent.

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CIVIL ACTION H-13-1214


ORDER OF DISMISSAL

Petitioner, a state inmate proceeding *pro se*, filed this section 2254 habeas proceeding challenging his 2000 punishment hearing. The Court ordered respondent to file an answer or, in respondent's discretion, a dispositive motion. Petitioner was ordered to respond to any dispositive motion within thirty days, and was advised that his failure to respond timely would result in dismissal of this lawsuit.

Respondent filed a timely motion for summary judgment on August 28, 2013, serving a copy on petitioner at his address of record. Respondent argued that the petition should be dismissed as barred by limitations. Despite expiration of a reasonable period of time of nearly fifty days, petitioner has failed to file a response to the dispositive motion. Plaintiff's inaction and failure to comply with the Court's order leads this Court to conclude that he no longer wishes to prosecute this lawsuit.

Accordingly, this lawsuit is DISMISSED WITHOUT PREJUDICE for want of prosecution and for petitioner's failure to comply with the Court's order pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. Any and all pending motions are DENIED AS MOOT. A certificate of appealability is DENIED.

Signed at Houston, Texas on October 18, 2013.



Gray H. Miller
United States District Judge